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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,629	03/27/2007	Karlheinz Herbold	034691/313122	8556
826 7590 01/25/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER MILLER, BENA B	
			ART UNIT 3725	PAPER NUMBER
			MAIL DATE 01/25/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,629

Applicant(s)

HERBOLD ET AL.

Examiner

Bena Miller

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 24-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/27/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 24-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim requires the disks are rotatable with respect to one another about a common axis. However, it is not clear whether the disks are rotatable with respect to one another since one of the disks is fixed. See figure 1 of disclosed invention (Note: disk 2 is fixed). Further, in claim 25, it is not clear whether the two grinding disks are mounted in such a manner that they can rotate counter to one another since one of the disks is fixed.

Regarding claim 24, the claim is vague and indefinite because the claim requires one of the two grinding disk mounted that it cannot rotate and the other grinding disk mounted to rotate. However, claim 1 recites the disks are rotatable with respect to one another about a common axis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 24-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dodd (US Patent 5,467,931) in view of Staver (US Patent 464,592).

Dodd teaches most of the elements of the claimed invention including two grinding disks (fig.1) formed as a ring with a central hole disposed essentially parallel to one another and rotatable with respect to one another about a common axis which extends through the central holes of the disk (fig.1), a first working surface (28), a second working surface (30) and the first and second working surfaces provided with straight cutting teeth (fig.3). The examiner takes the position that the disks of Dodd are approximately of equal size and equal working surfaces, the outer edge section makes up approximately 30%-70% of radial extension of the grinding disks and the cutting teeth angle of 2 to 40 degrees relative approximately direction. Further, the examiner further takes the position that the disk mill of Dodd is configured for grinding hard materials, minerals, plastics, soft materials, wood pulps and foodstuffs. However, Dodd fails to teach the cutting teeth of the second working surfaces are inclined more sharply than the cutting teeth of the first working surfaces. Staver teaches two companion grinding rings, wherein one is stationary and the other revolving, having a portion of the working surface (g) with cutting teeth that are inclined more sharply than the cutting teeth of another portion of the working surface (j; fig. 4 and 5). It would have been obvious to one of ordinary skill in the art to have the cutting teeth of the second working surface inclined more sharply, as suggested by Staver, than the cutting teeth of the first

working surface of Dodd for the purpose of providing a continuous feed, a positive reduction and final finish of the grinded material.

In the event Applicant disagrees with the Examiner's position that Dodd teaches the disks are approximately of equal size and equal working surfaces, the outer edge section makes up approximately 30%-70% of radial extension of the grinding disks and the cutting teeth angle of 2 to 40 degrees relative approximately direction, it would have been obvious to one of ordinary skill in the art to incorporate these features in the device of Dodd for the purpose providing disk with extended wear life.

Conclusion

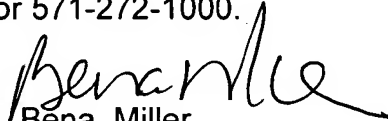
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/596,629
Art Unit: 3725

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Bena Miller
Primary Examiner
Art Unit 3725

bbm
January 22, 2008